

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

LEROY JONES,	:	APPEAL NO. C-070781
	:	TRIAL NO. A-0508294
Plaintiff-Appellant,	:	
vs.	:	JUDGMENT ENTRY.
	:	
ESTATE OF EDWARD BAKER,	:	
SCHUYLER J. SMITH, EXECUTOR	:	
AND TRUSTEE,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

A number of LeRoy Jones' bank accounts had been garnished to partially satisfy a \$31,200 judgment against him. Two of these accounts, a checking account and a savings account, were held jointly by LeRoy and Rosa Jones. Rosa Jones was Jones' grandmother. The other account was a certificate-of-deposit account held by Jones and Kenneth Greer, who had been Jones' business associate.

Jones moved the trial court for an order to stop the garnishment of these accounts, claiming that the money in them was not his. At the garnishment hearing, Jones testified that he had never deposited money into or withdrawn money from the accounts he shared with his grandmother. He claimed that he was named on these accounts as a matter of convenience only. Jones also testified that he had deposited no money into the certificate-of-deposit that he held with Greer. According to Jones, Greer had wanted Jones' name on the account in the event that Greer, a parolee, was returned to prison and

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

could not obtain access to the money. No one else testified for Jones. Jones produced no documentation to corroborate his testimony.

Edward Baker's estate called bank manager Kendra Kelly as a witness. She testified that all three accounts were joint-and-survivorship accounts. Kelly stated that Jones had full access to all the money in all three accounts, and that the money in each would automatically pass to him upon the death of the other joint account holder. Kelly also testified that LeRoy and Rosa Jones' checking account contained Rosa Jones' social-security payments.

The trial court concluded that the checking account was exempt from garnishment as a matter of law because it contained Rosa Jones' social-security payments, but it denied Jones' motion for the other two accounts. In one assignment of error, Jones now appeals the trial court's judgment. We affirm.

Jones essentially challenges the manifest weight of the evidence, contending that the trial court should have believed his testimony that none of the money in the two accounts at issue was his. In reviewing the manifest weight of the evidence, this court is "guided by a presumption that the findings of the trier-of-fact were indeed correct."<sup>2</sup> We cannot substitute our judgment for that of the trial court where there exists competent and credible evidence supporting the court's findings of fact and conclusions of law.<sup>3</sup>

The accounts here were joint-and-survivorship accounts. A joint-and-survivorship bank account raises a rebuttable presumption that the co-owners of the account share equally in the ownership of the funds on deposit.<sup>4</sup> Jones had the burden to prove by a preponderance of the evidence that this was not the case.<sup>5</sup> The

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<sup>2</sup> *Seasons Coal Co. v. Cleveland* (1984), 10 Ohio St.3d 77, 80, 461 N.E.2d 1273.

<sup>3</sup> *Id.*

<sup>4</sup> See *Vetter v. Hampton* (1978), 54 Ohio St.2d 227, 375 N.E.2d 804, paragraph three of the syllabus; *Union Properties, Inc. v. Cleveland Trust Co.* (1949), 152 Ohio St. 430, 89 N.E.2d 638.

<sup>5</sup> See *id.*; see, also, *Cowling v. Cowling*, 109 Ohio St.3d 276, 2006-Ohio-2418, 847 N.E.2d 405, at ¶15.

trier of fact chose not to believe Jones' testimony, and Jones offered no other evidence. Kelly's testimony supported the trial court's finding that Jones shared equally in the two accounts at issue, and therefore that they could be garnished to pay the judgment against him. Jones' sole assignment of error is overruled.

We affirm the trial court's judgment.

A certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., HENDON and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the court' journal on July 9, 2008  
by order of the court \_\_\_\_\_.  
Presiding Judge